

## **REMARKS**

Claims 1-18 were examined. Claims 1-2, 11-12 and 14 are amended. Claims 1-18 remain in the Application.

The Patent Office rejects claims 11-12 and 14-16 under 35 U.S.C. §102(b). The Patent Office rejects claims 1-8 and 11-18 under 35 U.S.C. §103(a). Reconsideration of the pending claims is respectfully requested in view of the above amendment and the following remarks.

A. 35 U.S.C. §102(b): Rejection of Claims 11-12 and 14-16

The Patent Office rejects claims 11-12 and 14-16 under 35 U.S.C. §102(b) as anticipated by U.S. Patent Number 5,788,681 of Weaver et al. (Weaver). According to the Patent Office, Weaver discloses catheter 10 including distal end 12 having a sharp bevel and a reduced diameter distal tip portion rendering a tapered portion at the distal end of catheter 10. Applicant is unable to find any teaching of Weaver of a reduced diameter distal portion rendering a tapered portion at the distal end of catheter 10. It appears, that the Patent Office may be referring to means 25 that describes a lining through the end of the catheter that is radio-opaque. (See Col. 7, Lines 42-59.)

Independent claim 11 describes an apparatus including a catheter body with a proximal portion and a distal portion, the distal portion having a tip and an end beveled across an end opening. Claim 10 also describes a portion of the distal portion having a fixed axis of symmetry different from the axis of symmetry of a proximal portion. For example, Figure 1 and Figure 2 of the Application show shaft 25 having a proximal portion and a distal portion that include bend portion 39 where “an axis of symmetry through bend portion 39 is deflected at an angle ( $\gamma$ ) between 5 and 45 degrees.” Application, paragraph [0028]. In other words, shaft 25 is bent.

Independent claim 11 is not anticipated by Weaver, because Weaver does not describe an apparatus including a catheter body wherein a distal portion of the catheter body has a fixed axis of symmetry different from the axis of symmetry of a proximal portion. The Patent Office references the extrusion of a resin comprised of nylon, PEBA or polyurethane. To the extent the Patent Office is saying the catheter body of Weaver can be deflected, Weaver does not describe a fixed axis of symmetry. Virtually any material can be deflected. It is also reasonable to assume

that applying a force to a polymer material such as described in Weaver will result in a deflection. However, when the force is removed, without more detail about a retained, deflected orientation, it is also reasonable to assume the catheter of Weaver will return to its original orientation. Therefore, Weaver does not describe a portion of the distal portion of its catheter having a fixed axis of symmetry different than an axis of symmetry of a proximal portion.

Claims 12 and 14-16 depend from claim 11 and therefore contain all the limitations of that claim. For the reasons stated with respect to claim 11, claims 12 and 14-16 are not anticipated by Weaver.

Applicant respectfully requests the Patent Office withdraw rejections of claims 11-12 and 14-16 under 35 U.S.C. §102(b).

**B. 35 U.S.C. §103(a): Rejection of Claims 17-18**

The Patent Office rejects Claims 17-18 under 35 U.S.C. §103(a) as obvious over Weaver.

Claims 17-18 depend from claim 11 and therefore contain all the limitations of that claim. For the reasons stated with respect to claims 11, claims 17-18 are not obvious over Weaver. Weaver fails to disclose or provide any motivation for a catheter body including a distal portion having a fixed axis of symmetry different from the axis of symmetry of a proximal portion.

Applicant respectfully requests the Patent Office withdraw the rejections of claims 27-28 under 35 U.S.C. §103(a).

**C. 35 U.S.C. §103(a): Rejection of Claims 1-8 & 11-16**

The Patent Office rejects claims 1-8 and 11-16 under 35 U.S.C. §103(a) as obvious over U.S. Patent No. 5,075,083 of Gellman (Gellman) and further in view of U.S. Patent No. 5,397,512 of Sloane, Jr., et al. (Sloane). Gellman teaches vascular dilators that are commonly used when inserting a catheter into a blood vessel in order to widen the openings formed by the initial needle or scalpel puncture so that it is better able to receive a larger diameter catheter. See Gellman, Col. 1, Lines 11-14. Sloane describes a catheter assembly that includes cannula 1, which appears to be a needle, and catheter 3 that has tip 4 with bevel 6 at a distal end. The bevel

is utilized to provide a smooth transition between the surface or outer diameter of cannula 1 and the surface or outer diameter of catheter 3 during the insertion process. See Col. 1, Lines 35-40.

Claim 1 describes a catheter including a shaft comprising a body having a length, the body with a proximal portion and a distal portion. Claim 1 is not obvious over the cited references, because the references do not describe a dilator comprising a body having a length configured for placement through an endoscopic device in an assisted embryo transfer procedure.

Applicant is unable to find any description in Gellman of a length of the dilator. However, in the context of the description described with reference to Figure 1, it is clear that the dilator be only of a length configured for placement through an endoscopic device in an assisted embryo transfer procedure.

Even if the dilator of Gellman were modified to include the beveled end taught in Sloane, there would be no motivation to lengthen the body of the dilator to a length suitable to be inserted through an hysteroscope.

Claims 2-8 depend from Claim 1 and therefore contain all the limitations of that claim. For at least the reasons stated with respect to claim 1, claims 2-8 are not obvious over the cited references.

Independent claim 11 is not obvious over the cited references, because the references do not describe an apparatus including a catheter body with a proximal portion and a distal portion, wherein a portion of the distal portion has a fixed axis of symmetry different than an axis of symmetry of the proximal portion. Dilator 16 of Gellman has a single axis of symmetry, as does catheter 3 of Sloane. The possibility that the dilator of Gellman can be deflected does not describe or provide any motivation for fixing a different axis of symmetry for the dilator.

Claims 12-16 depend from claim 11 and therefore contain all the limitations of that claim. For at least the reasons stated with respect to claim 11, claims 12-16 are not obvious over the cited references. Applicant respectfully requests that the Patent Office withdraw the rejection to claims 1-8 and 11-16 under 35 U.S.C. §103(a).

**CONCLUSION**

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record and are in condition for allowance and such action is earnestly solicited at the earliest possible date.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

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Dated: \_\_\_\_\_

8/15/07

William V. Babbitt

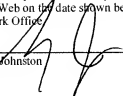
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